



Journal of the Senate

State of Indiana

115th General Assembly

Second Regular Session

Twenty-ninth Meeting Day

Tuesday Afternoon

March 11, 2008

The Senate convened at 2:37 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

Prayer was offered by John E. Broden.

The Pledge of Allegiance to the Flag was led by Senator Broden.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Arnold	Lubbers
Becker	Meeks
Boots	Merritt
Bray	Miller
Breaux	Mishler
Broden	Mrvan
Charbonneau	Nugent
Deig	Paul
Delph	Riegsecker
Dillon	Rogers
Drozda	Simpson
Errington	Sipes
Ford	Skinner
Gard	Smith
Hershman	Steele
Howard <input checked="" type="checkbox"/>	Tallian
Hume	Walker
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 322: present 48; excused 1. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

RESOLUTIONS ON FIRST READING

Senate Resolution 40

Senate Resolution 40, introduced by Senator Gard:

A SENATE RESOLUTION urging the Legislative Council to direct the Environmental Quality Service Council to study water/wastewater infrastructure funding solutions.

Whereas, Indiana's future will be dependent on adequate infrastructure to foster economic development, improve the

environment, and enhance the quality of life for Hoosiers;

Whereas, Now that Indiana has addressed the long-term, adequate, and stable funding of its state highways, it is time to turn attention to the funding requirements of water and wastewater systems, since those types of infrastructure are also essential for Indiana's prosperity but severely lack funding throughout Indiana;

Whereas, Indiana's water and wastewater infrastructure needs nearly \$20 billion in improvements over the next 20 years, \$1 billion per year based on a 2003 report commissioned for the state and adjusted for inflation;

Whereas, All 92 counties in Indiana need some form of water/sewer improvements;

Whereas, In real dollar terms, our country's investment in water infrastructure is approximately 30 percent less than it was 40 years ago;

Whereas, All water and wastewater infrastructure systems are aging and many are deteriorating; in less than 10 years, water quality may erode to conditions that existed before the Clean Water Act was passed in the 1970s if water and wastewater infrastructure is not repaired or improved;

Whereas, Indiana was the last state to outlaw the construction of combined sewers (storm water and wastewater in one system), and approximately 150 billion gallons of sewage is discharged each year from Indiana combined sewer systems and approximately 20 percent of the nation's combined sewer overflow (CSO) volume each year occurs in Indiana;

Whereas, Failing septic systems cause health and environmental problems, and Indiana has one of the highest percentages of septic system use in the nation;

Whereas, Federal funding of clean water treatment plants for local government is projected to be eliminated by 2011, and the low-interest loans from the Clean Water State Revolving Fund (SRF) that are today's primary source of federal support have been slashed dramatically over the last 30 years, leaving communities with few options;

Whereas, Water and wastewater infrastructure repairs will cost every household in Indiana an additional \$400 per year for the next 20 years since many communities lack the capacity to raise rates high enough to match the cost of these repairs and improvements; and

Whereas, Economic development is increasingly impeded by the magnitude of Indiana's CSO issues: Therefore,

*Be it resolved by the Senate of the
General Assembly of the State of Indiana:*

SECTION 1. That the Legislative Council is urged to direct the Environmental Quality Service Council to begin work on this vital issue and find funding solutions for the good of the state, its citizens, and its businesses.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

Senate Resolution 43

Senate Resolution 43, introduced by Senator R. Young:

A SENATE RESOLUTION urging the Legislative Council to assign the topic of wages, benefits, and working conditions of persons who provide in-home care and related services to senior citizens and persons with disabilities to a committee for further study during the interim.

Whereas, Tens of thousands of senior citizens and persons with disabilities receive in-home care financed through the CHOICE and Medicaid waiver programs;

Whereas, The quality of the care and the safety of the residents that receive the care is directly affected by the quality of the workforce that delivers the care;

Whereas, In-home care workers often work long hours for low wages, few benefits, little or no health insurance, and in poor working conditions;

Whereas, The demand for in-home care and related community services continues to grow and are vital to sustaining the health and well-being of families that are caring for loved ones and breadwinners who must do double duty as caregivers; and

Whereas, The growth of a quality system of in-home care and related community based services is in the best interest of senior citizens, persons with disabilities, in-home care workers, in-home care providers, tax payers, and the state: Therefore,

*Be it resolved by the Senate of the
General Assembly of the State of Indiana:*

SECTION 1. That the Legislative Council is urged to assign the topic of wages, benefits, and working conditions of persons who provide in-home care and related services to senior citizens and persons with disabilities to a committee for further study during the interim.

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council, and that the committee shall issue a final report when directed to do so by the council.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

Senate Resolution 44

Senate Resolution 44, introduced by Senator R. Young:

A SENATE RESOLUTION urging the Legislative Council to assign the topic of disconnecting delinquent customers of regional sewer districts and not-for-profit utilities.

Whereas, Delinquent customers are forcing small and not-for-profit utilities to increase the rates of responsible customers who pay their bills on time;

Whereas, It is important to insure that customers pay their utility bill and prevent the increase of rates for customers who pay on time; and

Whereas, The disconnecting of delinquent customers of small and not-for-profit utilities is an important topic affecting Hoosiers that deserves serious consideration from the legislature: Therefore,

*Be it resolved by the Senate of the
General Assembly of the State of Indiana:*

SECTION 1. That the Legislative council is urged to assign the topic of disconnecting delinquent customers of regional sewer districts and not-for-profit utilities.

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council, and that the committee shall issue a final report when directed to do so by the council.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: Pursuant to Senate Rule 83(k) your Committee on Rules and Legislative Procedure to which was referred Conference Committee Reports filed on Engrossed Senate Bills 31 and 72, and Engrossed House Bill 1165 has had the same under consideration and begs leave to report back to the Senate with the recommendation that said Conference Committee Reports are eligible for consideration.

LONG

Report adopted.

SENATE MOTION

Madam President: I move that Senate Rule 84, which requires enrolled acts to be certified as accurate by the first author of the bill, be suspended in order that Senate Enrolled Acts 189, 197, and 257 may be signed and certified as accurate by the respective second authors on behalf of Senator Ford.

LONG

Report adopted.

REPORTS FROM COMMITTEES**COMMITTEE REPORT**

Madam President: The Senate committee on Rules and Legislative Procedure, to which was referred the motion of Senator Long requesting suspension of Senate Rule 84 for Senate Enrolled Acts 189, 197, and 257, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said motion be adopted.

LONG

Report adopted.

**MOTIONS TO CONCUR
IN HOUSE AMENDMENTS****SENATE MOTION**

Madam President: I move that the Senate do concur with the House amendments to Engrossed Senate Bill 28.

DROZDA

Roll Call 323: yeas 44, nays 2. Motion prevailed.

SENATE MOTION

Madam President: I move that the Senate do concur with the House amendments to Engrossed Senate Bill 352.

PAUL

Roll Call 324: yeas 47, nays 0. Motion prevailed.

CONFERENCE COMMITTEE REPORTS**CONFERENCE COMMITTEE REPORT****EHB 1165-1**

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill 1165 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-20-1-4, AS AMENDED BY P.L.99-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The authority has all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the power:

- (1) to make or participate in the making of construction loans to sponsors of multiple family residential housing that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities approved by the authority;
- (2) to make or participate in the making of mortgage loans to sponsors of multiple family residential housing that is

federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities approved by the authority;

(3) to purchase or participate in the purchase from mortgage lenders of mortgage loans made to persons of low and moderate income for residential housing;

(4) to make loans to mortgage lenders for the purpose of furnishing funds to such mortgage lenders to be used for making mortgage loans for persons and families of low and moderate income. However, the obligation to repay loans to mortgage lenders shall be general obligations of the respective mortgage lenders and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such note, bond, or other certificate of indebtedness, shall be subject to prepayment, and shall contain such other provisions consistent with the purposes of this chapter as the authority shall by rule or resolution determine;

(5) to collect and pay reasonable fees and charges in connection with making, purchasing, and servicing of its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) to acquire real property, or any interest in real property, by conveyance, including purchase in lieu of foreclosure, or foreclosure, to own, manage, operate, hold, clear, improve, and rehabilitate such real property and sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purposes of the authority;

(7) to sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction loan, a land development loan, a mortgage loan, or a loan of any type permitted by this chapter;

(8) to procure insurance against any loss in connection with its operations in such amounts and from such insurers as it may deem necessary or desirable;

(9) to consent, subject to the provisions of any contract with noteholders or bondholders which may then exist, whenever it deems it necessary or desirable in the fulfillment of its purposes to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, loan to lender, or contract or agreement of any kind to which the authority is a party;

(10) to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing;

(11) to include in any borrowing such amounts as may be deemed necessary by the authority to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time

thereafter or if the housing is completed, two (2) years from the date of issue of the obligations), consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) to make and publish rules respecting its lending programs and such other rules as are necessary to effectuate the purposes of this chapter;

(13) to provide technical and advisory services to sponsors, builders, and developers of residential housing and to residents and potential residents, including housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) to promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) to encourage community organizations to participate in residential housing development;

(16) to make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, limited liability company, or other organization or entity necessary or convenient to accomplish the purposes of this chapter;

(17) to accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) to sue and be sued in its own name, plead and be impleaded;

(19) to maintain an office in the city of Indianapolis and at such other place or places as it may determine;

(20) to adopt an official seal and alter the same at pleasure;

(21) to adopt and from time to time amend and repeal bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties;

(22) to employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;

(23) notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, to invest:

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority;

(24) to make or participate in the making of construction loans, mortgage loans, or both, to individuals, partnerships, limited liability companies, corporations, and organizations for the construction of residential facilities for individuals with a developmental disability or for individuals with a

mental illness or for the acquisition or renovation, or both, of a facility to make it suitable for use as a new residential facility for individuals with a developmental disability or for individuals with a mental illness;

(25) to make or participate in the making of construction and mortgage loans to individuals, partnerships, corporations, limited liability companies, and organizations for the construction, rehabilitation, or acquisition of residential facilities for children;

(26) to purchase or participate in the purchase of mortgage loans from:

(A) public utilities (as defined in IC 8-1-2-1); or

(B) municipally owned gas utility systems organized under IC 8-1.5;

if those mortgage loans were made for the purpose of insulating and otherwise weatherizing single family residences in order to conserve energy used to heat and cool those residences;

(27) to provide financial assistance to mutual housing associations (IC 5-20-3) in the form of grants, loans, or a combination of grants and loans for the development of housing for low and moderate income families;

(28) to service mortgage loans made or acquired by the authority and to impose and collect reasonable fees and charges in connection with such servicing;

(29) subject to the authority's investment policy, to enter into swap agreements (as defined in IC 8-9.5-9-4) in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7;

(30) to promote and foster community revitalization through community services and real estate development;

(31) to coordinate and establish linkages between governmental and other social services programs to ensure the effective delivery of services to low income individuals **and families, including individuals or families facing or experiencing homelessness;**

(32) to cooperate with local housing officials and plan commissions in the development of projects that the officials or commissions have under consideration;

(33) to take actions necessary to implement its powers that the authority determines to be appropriate and necessary to ensure the availability of state or federal financial assistance; and

(34) to administer any program or money designated by the state or available from the federal government or other sources that is consistent with the authority's powers and duties.

The omission of a power from the list in this subsection does not imply that the authority lacks that power. The authority may exercise any power that is not listed in this subsection but is consistent with the powers listed in this subsection to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(b) The authority shall structure and administer any program conducted under subsection (a)(3) or (a)(4) in order to assure that no mortgage loan shall knowingly be made to a person whose adjusted family income shall exceed one hundred twenty-five percent (125%) of the median income for the geographic area within which the person resides and at least forty percent (40%)

of the mortgage loans so financed shall be for persons whose adjusted family income shall be below eighty percent (80%) of the median income for such area.

(c) In addition to the powers set forth in subsection (a), the authority may, with the proceeds of bonds and notes sold to retirement plans covered by IC 5-10-1.7, structure and administer a program of purchasing or participating in the purchasing from mortgage lenders of mortgage loans made to qualified members of retirement plans and other individuals. The authority shall structure and administer any program conducted under this subsection to assure that:

(1) each mortgage loan is made as a first mortgage loan for real property:

- (A) that is a single family dwelling, including a condominium or townhouse, located in Indiana;
- (B) for a purchase price of not more than ninety-five thousand dollars (\$95,000);
- (C) to be used as the purchaser's principal residence; and
- (D) for which the purchaser has made a down payment in an amount determined by the authority;

(2) no mortgage loan exceeds seventy-five thousand dollars (\$75,000);

(3) any bonds or notes issued which are backed by mortgage loans purchased by the authority under this subsection shall be offered for sale to the retirement plans covered by IC 5-10-1.7; and

(4) qualified members of a retirement plan shall be given preference with respect to the mortgage loans that in the aggregate do not exceed the amount invested by their retirement plan in bonds and notes issued by the authority that are backed by mortgage loans purchased by the authority under this subsection.

(d) As used in this section, "a qualified member of a retirement plan" means an active or retired member:

(1) of a retirement plan covered by IC 5-10-1.7 that has invested in bonds and notes issued by the authority that are backed by mortgage loans purchased by the authority under subsection (c); and

(2) who for a minimum of two (2) years preceding the member's application for a mortgage loan has:

- (A) been a full-time state employee, teacher, judge, police officer, or firefighter;
- (B) been a full-time employee of a political subdivision participating in the public employees' retirement fund;
- (C) been receiving retirement benefits from the retirement plan; or
- (D) a combination of employment and receipt of retirement benefits equaling at least two (2) years.

(e) The authority, when directed by the governor, shall administer programs and funds under 42 U.S.C. 1437 et seq.

(f) The authority shall identify, promote, assist, and fund home ownership education programs conducted throughout Indiana by nonprofit counseling agencies certified by the authority using funds appropriated under section 27 of this chapter. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the authority in implementing this subsection.

(g) **The authority shall:**

(1) oversee and encourage a regional homeless delivery system that:

(A) considers the need for housing and support services;

(B) implements strategies to respond to gaps in the delivery system; and

(C) ensures individuals and families are matched with optimal housing solutions;

(2) facilitate the dissemination of information to assist individuals and families accessing local resources, programs, and services related to homelessness, housing, and community development; and

(3) each year, estimate and reasonably determine the number of the following:

(A) Individuals in Indiana who are homeless.

(B) Individuals in Indiana who are homeless and less than eighteen (18) years of age.

(C) Individuals in Indiana who are homeless and not residents of Indiana.

SECTION 2. IC 20-26-11-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 30. (a) This section applies to a student who resided in a school corporation where the student had legal settlement for at least two (2) consecutive school years immediately before moving to an adjacent school corporation.**

(b) A school corporation in which a student had legal settlement for at least two (2) consecutive years as described in subsection (a):

(1) shall allow the student to attend an appropriate school within the school corporation in which the student formerly resided;

(2) may not request the payment of transfer tuition for the student from the school corporation in which the student currently resides and has legal settlement or from the student's parent; and

(3) shall include the student in the school corporation's ADM;

if the principal and superintendent in both school corporations jointly agree to enroll the student in the school.

(c) If a student enrolls under this section in a school described in subsection (b)(1), the student's parent must provide for the student's transportation to school.

(d) A student to whom this section applies may not enroll primarily for athletic reasons in a school in a school corporation in which the student does not have legal settlement. However, a decision to allow a student to enroll in a school corporation in which the student does not have legal settlement is not considered a determination that the student did not enroll primarily for athletic reasons.

SECTION 3. IC 20-50 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 50. HOMELESS CHILDREN AND FOSTER CARE CHILDREN

Chapter 1. School Corporation Liaison for Homeless Children

Sec. 1. (a) As used in this chapter, "homeless child" means a minor who lacks a fixed, regular, and adequate nighttime residence.

(b) The term includes:

(1) a child who:

(A) shares the housing of other persons due to the child's loss of housing, economic hardship, or a similar reason;

(B) lives in a motel, hotel, or campground due to the lack of alternative adequate accommodations;

(C) lives in an emergency or transitional shelter;

(D) is abandoned in a hospital or other place not intended for general habitation; or

(E) is awaiting foster care placement;

(2) a child who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

(3) a child who lives in a car, a park, a public space, an abandoned building, a bus station, a train station, substandard housing, or a similar setting; and

(4) a child of a migratory worker who lives in circumstances described in subdivisions (1) through (3).

Sec. 2. The department shall establish an office of coordinator for education of homeless children as required by 42 U.S.C. 11431 et seq.

Sec. 3. Each school corporation shall appoint an employee to be the school corporation's liaison for homeless children as required by 42 U.S.C. 11431 et seq.

Sec. 4. Each school corporation shall report to the department, by August 1 of each year, the name and contact information of the school corporation's liaison for homeless children.

Sec. 5. Each school corporation that has an Internet web site shall post the contact information of the school corporation's liaison for homeless children on the school corporation's Internet web site.

Sec. 6. Each year, the department shall provide training to individuals who are appointed under section 3 of this chapter as liaisons for homeless children.

Chapter 2. Tutoring and Mentoring for Homeless Children and Foster Care Children

Sec. 1. This chapter applies after June 30, 2009.

Sec. 2. As used in this chapter, "homeless child" has the meaning set forth in IC 20-50-1-1.

Sec. 3. Each school corporation shall provide tutoring for a child enrolled in a school operated by the school corporation who is:

(1) in foster care; or

(2) a homeless child;

if the school corporation determines the child has a demonstrated need for tutoring.

Chapter 3. Transportation of Students in Foster Care

Sec. 1. This chapter applies after June 30, 2009.

Sec. 2. As used in this chapter, "original school corporation" means the school corporation in which the school of origin of a student in foster care is located.

Sec. 3. As used in this chapter, "school of origin" means the school:

(1) that a student in foster care attended when the student last had a permanent residence; or

(2) in which a student in foster care was last enrolled.

Sec. 4. As used in this chapter, "transitional school corporation" means the school corporation in which a student in foster care temporarily stays.

Sec. 5. (a) If a student in foster care temporarily stays in the student's original school corporation but outside the attendance area of the student's school of origin, the original school corporation shall provide transportation for the student from the place where the student is temporarily staying to the school of origin and from the school of origin to the place where the student is temporarily staying.

(b) If:

(1) the school of origin of a student in foster care is located in a school corporation other than the school corporation in which the student is temporarily staying;

(2) the school of origin is located in a school corporation that adjoins the school corporation in which the student is temporarily staying; and

(3) the student does not elect to attend a school located in the school corporation in which the student in foster care is temporarily staying;

the original school corporation and the transitional school corporation shall enter into an agreement concerning the responsibility for and apportionment of the costs of transporting the student to and from the school of origin.

(c) If the original school corporation and the transitional school corporation described in subsection (b) are unable to reach an agreement under subsection (b), the responsibility for transporting the student in foster care to and from the school of origin is shared equally between both school corporations, and the cost of transporting the student to and from the school of origin is apportioned equally between both school corporations.

SECTION 4. IC 31-9-2-13, AS AMENDED BY P.L.138-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16 (excluding IC 31-16-12.5), and IC 31-17, means a child or children of both parties to the marriage. The term includes the following:

(1) Children born out of wedlock to the parties.

(2) Children born or adopted during the marriage of the parties.

(b) "Child", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.

(c) "Child", for purposes of IC 31-19-5, includes an unborn child.

(d) Except as otherwise provided in this section, "child", for purposes of the juvenile law, means:

(1) a person who is less than eighteen (18) years of age;

(2) a person:

(A) who is eighteen (18), nineteen (19), or twenty (20) years of age; and

(B) who either:

- (i) is charged with a delinquent act committed before the person's eighteenth birthday; or
- (ii) has been adjudicated a child in need of services before the person's eighteenth birthday; or

(3) a person:

- (A) who is alleged to have committed an act that would have been murder if committed by an adult;
- (B) who was less than eighteen (18) years of age at the time of the alleged act; and
- (C) who is less than twenty-one (21) years of age.

(e) "Child", for purposes of IC 31-36-3, means a person who is less than eighteen (18) years of age.

(f) "Child", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(g) "Child", for purposes of IC 31-16-12.5, means an individual to whom child support is owed under:

- (1) a child support order issued under IC 31-14-10 or IC 31-16-6; or
- (2) any other child support order that is enforceable under IC 31-16-12.5.

(h) "Child", for purposes of IC 31-27 and IC 31-32-5, means an individual who is less than eighteen (18) years of age.

(i) "Child", for purposes of the Uniform Child Custody Jurisdiction Act under IC 31-21, has the meaning set forth in IC 31-21-2-3.

SECTION 5. IC 31-9-2-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28. "Court appointed special advocate", for purposes of IC 31-15-6, IC 31-17-6, IC 31-19-16, IC 31-19-16.5, **IC 31-28-5**, and the juvenile law, means a community volunteer who:

- (1) has completed a training program approved by the court;
- (2) has been appointed by a court to represent and protect the best interests of a child; and
- (3) may research, examine, advocate, facilitate, and monitor a child's situation.

SECTION 6. IC 31-9-2-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 50. "Guardian ad litem", for purposes of IC 31-15-6, IC 31-16-3, IC 31-19-16, IC 31-19-16.5, **IC 31-28-5**, and the juvenile law, means an attorney, a volunteer, or an employee of a county program designated under IC 33-24-6-4 who is appointed by a court to:

- (1) represent and protect the best interests of a child; and
 - (2) provide the child with services requested by the court, including:
 - (A) researching;
 - (B) examining;
 - (C) advocating;
 - (D) facilitating; and
 - (E) monitoring;
- the child's situation.

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

SECTION 7. IC 31-9-2-116.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 116.5. "Services or items", for purposes of IC 31-36-3, has the meaning set forth in IC 31-36-3-1.**

SECTION 8. IC 31-9-2-117.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 117.3. "Sibling", for purposes of IC 31-28-5, means a brother or sister by blood, half-blood, or adoption.**

SECTION 9. IC 31-17-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A court, in a proceeding under IC 31-17-2, IC 31-17-4, this chapter, ~~or~~ IC 31-17-7, **or IC 31-28-5**, may appoint a guardian ad litem, a court appointed special advocate, or both, for a child at any time.

SECTION 10. IC 31-28-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 5. Foster Care Sibling Visitation

Sec. 1. This chapter applies to:

- (1) a child who receives foster care that is funded by the department or a county office; and**
- (2) a sibling of a child described in subdivision (1).**

Sec. 2. The department shall make reasonable efforts to promote sibling visitation for every child who receives foster care, including visitation when one (1) sibling receives foster care and another sibling does not.

Sec. 3. A child, a child's foster parent, a child's guardian ad litem, a court appointed special advocate, or an agency that has the legal responsibility or authorization to care for, treat, or supervise a child may request the department to permit the child to have visitation with the child's sibling if the child or the child's sibling, or both, receive foster care. If the department finds that the sibling visitation is in the best interests of each child who receives foster care, the department shall permit the sibling visitation and establish a sibling visitation schedule.

Sec. 4. (a) If the department denies a request for sibling visitation under section 3 of this chapter, the child's guardian ad litem or court appointed special advocate may petition the juvenile court with jurisdiction in the county in which the child receiving foster care is located for an order requiring sibling visitation.

(b) If the juvenile court determines it is in the best interests of the child receiving foster care to have sibling visitation, the juvenile court shall order sibling visitation and establish a schedule for the sibling visitation.

Sec. 5. (a) The juvenile court may appoint a guardian ad litem or court appointed special advocate if a child receiving foster care requests sibling visitation.

(b) The provisions of IC 31-17-6 apply to a guardian ad litem or court appointed special advocate appointed under this section.

SECTION 11. IC 31-36-3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 3. Homeless Children

Sec. 1. As used in this chapter, "services or items" includes food, clothing, personal hygiene products, health care, and counseling.

Sec. 2. A child may receive shelter and services or items that are directly related to providing shelter to the child from:

- (1) an emergency shelter;
- (2) a shelter care facility; or
- (3) a program that provides services or items that are directly related to providing shelter to individuals who are homeless or have a low income;

without the notification, consent, or permission of the child's parent, guardian, or custodian.

Sec. 3. (a) Except as provided in subsection (d), if a child voluntarily enters an emergency shelter or a shelter care facility, the shelter or facility shall notify the department, not later than twenty-four (24) hours after the child enters the shelter or facility, of the following:

- (1) The name of the child.
- (2) The location of the shelter or facility.
- (3) Whether the child alleges that the child is the subject of abuse or neglect.

(b) The department shall conduct an investigation concerning the child not later than forty-eight (48) hours after receiving notification from the emergency shelter or shelter care facility under subsection (a).

(c) The department shall notify the child's parent, guardian, or custodian that the child is in an emergency shelter or a shelter care facility not later than seventy-two (72) hours after the child enters the shelter or facility. However, if the department has reason to believe that the child is a victim of child abuse or neglect, the department may not notify the child's parent, guardian, or custodian as to the specific shelter or facility the child has entered.

(d) An emergency shelter or a shelter care facility is not required to notify the department of a child who is an emancipated minor.

(Reference is to EHB 1165 as reprinted February 13, 2008.)

Avery, Chair Becker

Knollman Sipes

House Conferees Senate Conferees

Roll Call 325: yeas 44, nays 3. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 31-1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 31 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 8-23-5-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9. (a) The department may establish the approximate locations, using the recommended**

widths established by the department in the department's approved design manual for equivalent classification of roads, of rights-of-way for additions to the state highway system.

(b) If the department establishes the approximate locations and widths of rights-of-way for an addition to the state highway system under subsection (a), the department shall conduct a public hearing in at least one (1) county in which a right-of-way for the addition is located. The department shall publish notice of a hearing conducted under this subsection in two (2) newspapers of general circulation in the county in which the hearing will be conducted at least ten (10) days before the hearing. If only one (1) newspaper is published in the county, publication in that newspaper is sufficient. Notice of the hearing shall be given by mail to all owners of real property identified within the rights-of-way shown on the map prepared under subsection (c).

(c) If the department establishes the approximate locations and widths of rights-of-way for an addition to the state highway system under subsection (a), the department shall prepare a map showing the approximate location and width of each right-of-way for the proposed addition. The map must display the following:

- (1) Existing highways in the area of the addition.
- (2) Property lines and owners of record of property to be acquired for the rights-of-way.
- (3) Other information determined necessary by the department.

The department shall approve the map, with changes (if applicable), at the public hearing conducted under subsection (b). The department shall record the approval and a copy of the approved map in the office of the recorder of each county in which land to be acquired for the addition is located.

(d) The department shall:

- (1) publish notice of a recording under subsection (c) in two (2) newspapers of general circulation in each county in which an approval is recorded; however, if only one (1) newspaper is published in the county, publication in that newspaper is sufficient; and
- (2) not more than sixty (60) days after an approval is recorded, send notice of the recording by certified mail to all owners of record of real property to be acquired for rights-of-way for the addition.

(e) The owner of property to be acquired for a right-of-way must give at least sixty (60) days notice by registered mail to the department before developing or otherwise improving the property. However, the owner may perform normal or emergency repairs to existing structures on the property without giving notice to the department.

(f) Not more than forty-five (45) days after receiving a notice under subsection (e), the department shall respond by providing notice to the property owner of the department's intent to acquire the property. The department shall:

- (1) purchase; or
- (2) exercise the right of eminent domain to acquire; the property not more than one hundred eighty (180) days after responding under this subsection. If the department does not purchase the property or acquire the property by

eminent domain within one hundred eighty (180) days after responding under this subsection, the department may subsequently acquire the property through the exercise of the right of eminent domain under IC 32-24.

(g) An owner of property to be acquired for a right-of-way may not receive damages for any development or improvement for which the owner is required to give notice to the department under subsection (e) unless the department fails to purchase or exercise the right of eminent domain to acquire the property under subsection (f).

(h) The state or a county or municipality in which an addition to the state highway system is located may acquire a right-of-way needed for the addition at any time. For purposes of this subsection, the fair market value of the property shall be determined as follows:

(1) If the property is purchased, the fair market value on the date of purchase.

(2) If the property is acquired by eminent domain, the fair market value on the date on which the complaint in condemnation was filed.

However, if the property is agricultural land, the fair market value shall be determined under IC 32-24-1.

(i) The department shall adopt guidelines to determine whether a project constitutes an addition to the state highway system for purposes of this section. In adopting guidelines under this subsection, the department shall consider the following:

(1) The need for additional capacity.

(2) The estimated cost of the project.

(3) Whether the project is new construction or maintenance.

(j) As used in this section, "owner" does not include a utility.

(k) At the same time and in the same manner as the notice is sent under subsection (d)(2), the department shall notify the owner of property to be acquired for a right-of-way of the following:

(1) With respect to damage that occurs to the property as a result of entry onto the land for a purpose set forth in IC 8-23-7-26:

(A) a description of the owner's right to compensation for the damage from the department; and

(B) the procedure that the owner must follow to obtain the compensation.

(2) The name, mailing address, and telephone number of an individual or office within the department to which the owner may direct questions concerning the rights and procedures described in subdivision (1).

SECTION 2. IC 8-23-7-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. An authorized employee or representative of the department engaged in a survey or investigation authorized by the commissioner or the commissioner's designee, **including a survey or investigation for purposes of IC 8-23-5-9**, may enter upon, over, or under any land or property within Indiana to conduct the survey or investigation by manual or mechanical means, which include the following:

(1) Inspecting.

(2) Measuring.

(3) Leveling.

(4) Boring.

(5) Trenching.

(6) Sample-taking.

(7) Archeological digging.

(8) Investigating soil and foundation.

(9) Transporting equipment.

(10) Any other work necessary to carry out the survey or investigation.

SECTION 3. IC 8-23-7-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. (a) Before an authorized employee or representative of the department enters upon, over, or under any land or water under section 26 of this chapter, the occupant of the land or water shall be notified in writing by first class United States mail of the entry not later than five (5) days before the date of entry. The employee or representative of the department shall present written identification or authorization to the occupant of the land or water before entering the land or water.

(b) At the same time and in the same manner as the notice required under subsection (a), the department shall notify the occupant and the record owner of the land or property of the following:

(1) With respect to damage that occurs to the land or property as a result of entry upon, over, or under the land or property as set forth in section 26 of this chapter:

(A) a description of the aggrieved party's right to compensation for the damage from the department; and

(B) the procedure that the aggrieved party must follow to obtain the compensation.

(2) The name, mailing address, and telephone number of an individual or office within the department to which an aggrieved party may direct questions concerning the rights and procedures described in subdivision (1).

SECTION 4. IC 8-23-7-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28. If during an entry under section 26 of this chapter damage occurs to the land or water as a result of the entry or work performed during the entry, the department shall compensate the aggrieved party. If the aggrieved party is not satisfied with the compensation determined by the department, the amount of damages shall be assessed by the county agricultural extension educator of the county in which the land or water is located and two (2) disinterested residents of the county, one (1) appointed by the aggrieved party and one (1) appointed by the department. A written report of the assessment of damages shall be mailed to the aggrieved party and the department by first class United States mail. If either the department or the aggrieved party is not satisfied with the assessment of damages, either or both may file a petition, not later than fifteen (15) days after receiving the report, in the circuit or superior court of the county in which the land or water is located. **The department shall pay any compensation awarded to an aggrieved party under this**

section:

- (1) not more than sixty (60) days after the date on which the parties agree to the amount of the compensation; or**
(2) as ordered by the circuit or superior court.

Renumber all SECTIONS consecutively.

(Reference is to ESB 31 as reprinted February 19, 2008.)

Zakas, Chair	Dembowski
Arnold	Duncan
Senate Conferees	House Conferees

Roll Call 326: yeas 47, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 72-1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 72 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-8.1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. **(a) The individual elected as treasurer of state shall take office on January 1 following the individual's election.**

(b) The treasurer of state and ~~his~~ **the treasurer's** deputy treasurers shall each give bond in an amount determined by the auditor of state and the governor. The bond shall be conditioned on the faithful performance of the duties as treasurer of state and deputy treasurer, respectively. The bond must be procured from a surety company authorized by law to transact business in this state.

SECTION 2. IC 5-10-10-4, AS AMENDED BY P.L.2-2007, SECTION 84, AS AMENDED BY P.L.132-2007, SECTION 4, AND AS AMENDED BY P.L.227-2007, SECTION 56, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

- (1) A state police officer.
- (2) A county sheriff.
- (3) A county police officer.
- (4) A correctional officer.
- (5) An excise police officer.
- (6) A county police reserve officer.
- (7) A city police reserve officer.
- (8) A conservation enforcement officer.
- (9) A town marshal.
- (10) A deputy town marshal.
- (11) A probation officer.
- (12) A state ~~university, college, or junior college~~ *educational institution* police officer appointed under ~~IC 20-12-3.5~~ *IC 21-39-4*.
- (13) A police officer whose employer purchases coverage under section 4.5 of this chapter.

(14) An emergency medical services provider (as defined in IC 16-41-10-1) who is:

- (A) employed by a political subdivision (as defined in IC 36-1-2-13); and
- (B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

(15) A firefighter who is employed by the fire department of a state university.

(16) A firefighter whose employer purchases coverage under section 4.5 of this chapter.

(17) A member of a consolidated law enforcement department established under IC 36-3-1-5.1.

(18) A gaming agent of the Indiana gaming commission.

(19) A person who is:

- (A) employed by a political subdivision (as defined in IC 36-1-2-13); and
- (B) appointed as a special deputy under IC 36-8-10-10.6.

(20) A gaming control officer of the Indiana gaming commission.

(21) An eligible chaplain who meets the requirements of section 4.7 of this chapter.

SECTION 3. IC 5-10-10-4.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.7. **(a) As used in this section, "eligible chaplain" means an individual who is appointed or officially designated to serve, with or without compensation, as a chaplain of any of the following:**

- (1) A law enforcement agency (as defined in IC 4-33-2-11.6).**
- (2) A full-time police department of a political subdivision (as defined in IC 36-1-2-13).**
- (3) A full-time fire department of a political subdivision (as defined in IC 36-1-2-13).**
- (4) A volunteer fire department (as defined in IC 36-8-12-2).**
- (5) A sheriff's department of a county.**

(b) An eligible chaplain who dies as a direct result of personal injury or illness resulting from the eligible chaplain's performance of duties as a chaplain for the agency or department that the eligible chaplain was appointed or officially designated to serve is eligible for a special death benefit from the fund in the same manner as any other public safety officer is eligible for a benefit from the fund.

SECTION 4. IC 5-10.2-1-8, AS AMENDED BY P.L.88-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) Except as provided in subsection (b), "vested status" as used in this article means the status of having ten (10) years of creditable service.

(b) In the case of a person who is an elected county official whose governing body has provided for the county official's participation in the public employees' retirement fund under IC 5-10.3-7-2(1), "vested status" means the status of having:

- (1) at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7;

(2) been elected at least two (2) times if the person would have had at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7 had the person's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; or
 (3) at least ten (10) years of creditable service as a member of the fund based on a combination of service as an elected county official and as a full-time employee in a covered position.

(c) In the case of a person whose term of office commences after the election on November 5, 2002, as auditor of state, secretary of state, or treasurer of state, and who is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years during any period of twelve (12) years, that person shall be vested with at least eight (8) years of creditable service as a member of the fund.

(d) This subsection applies to an individual elected to the office of treasurer of state at the election on November 7, 2006. The individual is vested for purposes of this article if the individual is reelected as treasurer of state at the 2010 general election and serves in the office until January 1, 2015.

SECTION 5. IC 5-10.2-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) For a member who retires **after June 30, 2008**, with service in more than one (1) retirement fund, ~~the last retirement fund in which the member rendered service~~ **may choose at the time the member files an application for retirement benefits whether to retire from the Indiana state teachers' retirement fund or from the public employees' retirement fund. The fund that the member chooses** shall pay the retirement benefits to the member. The pension shall be computed and vested status shall be determined on the basis of combined creditable service. The annuity, if any, shall be computed on the basis of amounts credited to the member in annuity savings accounts in all funds **minus any amount withdrawn by the member under IC 5-10.2-3-6.5.** The funds in which the employee was a member shall pay to the fund responsible for payment of benefits:

- (1) the amount credited to ~~him~~ **the member** in the annuity savings account; and
- (2) the proportionate actuarial cost of ~~his~~ **the member's** pension.

(b) A member of the Indiana state teachers' retirement fund who has served as a member of the general assembly and who retires after June 30, 1980, may choose at ~~his~~ **the member's** retirement date whether to retire from the Indiana state teachers' retirement fund or from the public employees' retirement fund. ~~If he~~ **the member** chooses to retire from the public employees' retirement fund, that fund is responsible for the payment of benefits provided in IC 5-10.2-4, and the Indiana state teachers' retirement fund shall pay to the public employees' retirement fund:

- (1) the amount credited to that member in the annuity savings account in the Indiana state teachers' retirement fund; and
- (2) the proportionate actuarial cost of ~~his~~ **the member's** pension.

SECTION 6. IC 5-10.2-3-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.2. (a) A member who has earned at least ten (10) years of service in a position covered by PERF, TRF, or a combination of the two (2) funds may purchase one (1) year of service credit for each five (5) years of service that the member has completed in a position covered by PERF or TRF.

(b) Before a member retires, a member who desires to purchase additional service credit under subsection (a) must contribute to the fund as follows:

(1) Contributions that are equal to the product of the following:

(A) The member's salary at the time the member actually makes a contribution for the service credit.

(B) A rate, determined by the actuary for the fund, that is based on the age of the member at the time the member actually makes a contribution for the service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(C) The number of years of service credit the member intends to purchase.

(2) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(c) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for the purpose of computing benefits unless the member has made all payments required for the purchase of the service credit.

(4) To the extent permitted by the Internal Revenue Code and applicable regulations, a member may purchase service credit under this section by a rollover distribution to the fund from any of the following:

(A) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(B) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(C) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(D) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(d) A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit may withdraw the purchase amount, plus accumulated interest, after submitting a properly completed application for a

refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under section 6 or 6.5 of this chapter to be eligible for a refund of the member's rollover amount.

(e) For a member who is a state employee, the employer may pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

(f) For a member who is an employee of a participating political subdivision, the employer may adopt an ordinance to pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

SECTION 7. IC 5-10.2-3-6.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.2. **(a) This section applies to a member of the Indiana state teachers' retirement fund.**

(b) A member who:

- (1) has attained vested status in the fund;
- (2) has terminated employment;
- (3) has not begun receiving benefits; and
- (4) is transferring creditable service earned under ~~PERF~~ or TRF to another governmental retirement plan under section 1(i) of this chapter;

may suspend the member's membership and withdraw the member's annuity savings account to purchase creditable service in the other governmental retirement plan.

SECTION 8. IC 5-10.2-3-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.5. **(a) This section applies after December 31, 2008, to a member of the public employees' retirement fund.**

(b) A member who meets all of the following requirements may elect to withdraw the entire amount in the member's annuity savings account before the member is eligible to do so at retirement under IC 5-10.2-4-2:

- (1) The member has attained vested status in the fund.
- (2) The member terminates employment.
- (3) The member has not performed any service in a position covered by the fund for at least ninety (90) days after the date the member terminates employment.

(c) A member who elects to withdraw the entire amount in the member's annuity savings account under subsection (b) shall provide notice of the election on a form provided by the board.

(d) The election to withdraw the entire amount in the member's annuity savings account is irrevocable.

(e) The board shall pay the amount in the member's annuity savings account as a lump sum.

(f) Except as provided in subsection (g), a member who makes a withdrawal under this section is entitled to receive, when the member becomes eligible to receive a retirement benefit under IC 5-10.2-4, a retirement benefit equal to the pension provided by employer contributions computed under IC 5-10.2-4.

(g) A member who:

(1) transfers creditable service earned under the fund to another governmental retirement plan under section 1(i) of this chapter; and

(2) withdraws the member's annuity savings account under this section to purchase the service;

may not use the transferred service in the computation of a retirement benefit payable under subsection (f).

SECTION 9. IC 5-10.2-4-1.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.3. **(a) A member who files an application for retirement benefits must provide the following information on the application form:**

(1) The retirement date chosen by the member.

(2) If the member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, whether the member chooses:

- (A) an annuity purchased from the amount credited to the member in the annuity savings account;
- (B) a total or partial distribution from the annuity savings account under section 2(b) of this chapter; or
- (C) a deferral of the payment of any benefits from the annuity savings account under section 2(c) of this chapter.

(3) The name of the beneficiary or beneficiaries designated by the member with respect to the pension portion of the member's retirement benefit.

(4) The name of the beneficiary or beneficiaries designated by the member with respect to the annuity portion of the member's retirement benefit, unless the member chooses total distribution under section 2 of this chapter.

(b) A member's designation of beneficiaries in the application for retirement benefits supersedes any previous designation of beneficiaries by the member.

(c) A member must indicate the name, address, date of birth, and Social Security number of each designated beneficiary and provide proof of birth of each designated beneficiary.

(d) Each board shall adopt a form for the application for retirement benefits that meets the requirements of this section.

SECTION 10. IC 5-10.2-4-1.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.9. **(a) This section applies only to a member of the public employees' retirement fund:**

(1) who has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) whose term of office as a state officer commenced after the election held on November 5, 2002.

(b) A member is eligible for normal retirement after becoming sixty-five (65) years of age if the member:

(1) has:

(A) served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana for at least eight (8) years; or

(B) been elected at least two (2) times and would have served at least eight (8) years as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted to establish

uniform dates for beginning the terms of state officers listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years in any period of twelve (12) years.

(c) A member who:

(1) has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) does not meet the requirements of subsection (b); is eligible for normal retirement if the member has attained vested status (as defined in IC 5-10.2-1-8(a)) and meets the requirements of section 1 of this chapter.

SECTION 11. IC 5-10.2-4-2, AS AMENDED BY P.L.62-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) Unless a member elects otherwise under this section or has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the retirement benefit for each member consists of the sum of a pension provided by employer contributions plus an annuity provided by the amount credited to the member in the annuity savings account. If a member has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the member's retirement benefit is equal to the pension provided by employer contributions, unless the member has transferred the creditable service earned under the public employees' retirement fund to another governmental retirement plan under IC 5-10.2-3-1(i).

(b) If a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, a member may choose at retirement or upon a disability retirement to receive a distribution of:

- (1) the entire amount credited to the member in the annuity savings account; or
- (2) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (1), the member is not entitled to an annuity as part of the retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2).

(c) Instead of choosing to receive the benefits described in subsection (a) or (b), if a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, a member may choose upon retirement or upon disability retirement to begin receiving a pension provided by employer contributions and to defer receiving in any form the member's annuity savings account. If a member chooses this option, the member:

- (1) is not entitled to an annuity as part of the member's retirement or disability benefit, and the member's annuity savings account will continue to be invested according to

the member's direction under IC 5-10.2-2-3; and

(2) may later choose, as of the first day of a month, or an alternate date established by the rules of each board, to receive a distribution of:

- (A) the entire amount credited to the member in the annuity savings account; or
- (B) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (2)(A), the member is not entitled to an annuity as part of the member's retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2)(B), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2)(B). If the member does not choose to receive a distribution under this subsection, the member is entitled to an annuity purchasable by the entire amount in the member's annuity savings account, and the form of the annuity shall be as described in subsection (d) unless the member elects an option described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter. The amount to be paid under this section shall be determined in the manner described in IC 5-10.2-2-3, except that it shall be determined as of the last day of the quarter preceding the member's actual distribution or annuitization date. However, each board may by rule provide for an alternate valuation date.

(d) Retirement benefits must be distributed in a manner that complies with Section 401(a)(9) of the Internal Revenue Code, as specified in IC 5-10.2-2-1.5.

SECTION 12. IC 5-10.2-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The computation of benefits under this section is subject to IC 5-10.2-2-1.5.

(b) For retirement benefits payable on and after July 1, 1975, for a member retired on and after January 1, 1956, the pension (p) is computed as follows:

STEP ONE: Multiply one and one-tenths percent (1.1%) times the average of the annual compensation (aac) and obtain a product.

STEP TWO: To obtain the pension, multiply the STEP ONE product by the total creditable service (scr) completed by the member on his the member's retirement date.

Expressed mathematically:

$$p = (.011) \text{ times } (aac) \text{ times } (scr)$$

(c) Unless the member:

- (1) has chosen a lump sum payment under section 2-2(b) of this chapter; or
- (2) has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5; or
- (3) elects to defer receiving in any form the member's annuity savings account under section 2(c) of this chapter;

the annuity is the amount purchasable on the member's retirement date by the amount credited to the member in the annuity savings account. The amount purchasable is based on actuarial tables adopted by the board under IC 5-10.2-2-10 at an interest rate determined by the board.

SECTION 13. IC 5-10.2-4-7, AS AMENDED BY P.L.149-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter. **A member who has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5 may not select the cash refund annuity option.**

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

(A) the total amount used in computing the annuity at the retirement date; minus

(B) the total annuity payments paid and due to the member before the member's death.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund after June 30, 2007. If:

(1) the designated beneficiary dies while the member is receiving benefits; or

(2) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the

member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds (2/3) or one-half (1/2) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(d) Except as provided in subsection (c) or section 7.2 of this chapter, a member who files for regular or disability retirement may not change:

(1) the member's retirement option under subsection (b);

(2) the selection of a lump sum payment under section 2 of this chapter; or

(3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 5-10.4-5-14.

SECTION 14. IC 5-13-10.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b), investments under this chapter may be made only in securities having a stated final maturity of two (2) years or less from the date of purchase.

(b) The treasurer of state may make investments in securities having a final maturity or redemption date that is more than two (2) years and not more than five (5) years after the date of purchase or subscription. After an investment is made under this subsection, the total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the treasurer of state. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the treasurer of state causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%). The treasurer of state may contract with federally regulated investment advisers and other institutional money managers to make investments under this section. ~~This subsection expires July 1, 2007.~~

(c) Unless prohibited under federal law, the treasurer of state shall invest under subsection (b) the funds of the transportation corridor fund established by IC 8-4.5-3-7. The treasurer of state may invest other funds held by the state in compliance with subsection (b). ~~This subsection expires July 1, 2007.~~

SECTION 15. [EFFECTIVE UPON PASSAGE] **Actions taken after June 30, 2007, and before the passage of this act that would have been valid under IC 5-13-10.5-3, as amended by this act, are legalized and validated.**

SECTION 16. **An emergency is declared for this act.**

(Reference is to ESB 72 as printed February 8, 2008.)

Kruse, Chair	Niezgodski
Tallian	Buell
Senate Conferees	House Conferees

Roll Call 327: yeas 48, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORT

ESB 91-1

Madam President: Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill 91 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-21.5-2-5, AS AMENDED BY P.L.1-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. This article does not apply to the following agency actions:

- (1) The issuance of a warrant or jeopardy warrant for the collection of taxes.
- (2) A determination of probable cause or no probable cause by the civil rights commission.
- (3) A determination in a factfinding conference of the civil rights commission.
- (4) A personnel action, except review of a personnel action by the state employees appeals commission under IC 4-15-2 or a personnel action that is not covered by IC 4-15-2 but may be taken only for cause.
- (5) A resolution, directive, or other action of any agency that relates solely to the internal policy, organization, or procedure of that agency or another agency and is not a licensing or enforcement action. Actions to which this exemption applies include the statutory obligations of an agency to approve or ratify an action of another agency.
- (6) An agency action related to an offender within the jurisdiction of the department of correction.
- (7) A decision of the Indiana economic development corporation, the office of tourism development, the department of environmental management, the tourist information and grant fund review committee (before the repeal of the statute that created the tourist information and grant fund review committee), the Indiana finance authority, the corporation for innovation development, or the lieutenant governor that concerns a grant, loan, bond, tax incentive, or financial guarantee.
- (8) A decision to issue or not issue a complaint, summons, or similar accusation.

(9) A decision to initiate or not initiate an inspection, investigation, or other similar inquiry that will be conducted by the agency, another agency, a political subdivision, including a prosecuting attorney, a court, or another person.

(10) A decision concerning the conduct of an inspection, investigation, or other similar inquiry by an agency.

(11) The acquisition, leasing, or disposition of property or procurement of goods or services by contract.

(12) Determinations of the department of workforce development under IC 22-4-18-1(g)(1) or IC 22-4-41.

(13) A decision under IC 9-30-12 of the bureau of motor vehicles to suspend or revoke a driver's license, a driver's permit, a vehicle title, or a vehicle registration of an individual who presents a dishonored check.

(14) An action of the department of financial institutions under IC 28-1-3.1 or a decision of the department of financial institutions to act under IC 28-1-3.1.

(15) A determination by the NVRA official under IC 3-7-11 concerning an alleged violation of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) or IC 3-7.

(16) Imposition of a civil penalty under IC 4-20.5-6-8 if the rules of the Indiana department of administration provide an administrative appeals process.

(17) A determination of status as a member of or participant in an environmental performance based program developed and implemented under IC 13-27-8.

(18) A proceeding to establish paternity or child support by the department of child services or an administrative law judge under IC 31-25-5.

SECTION 2. IC 31-9-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 1.5. "Administrative law judge", for purposes of IC 31-25-5, means a person employed by the department of child services under IC 31-25-2-21.**

SECTION 3. IC 31-9-2-17.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 17.7. "Child support", for purposes of IC 31-25-5, includes child support, child support arrearage, foster care maintenance, medical support, interest on child support arrearage, and other reasonable support for a child.**

SECTION 4. IC 31-9-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 18. "Child support guidelines", for purposes of IC 31-14-11-8, ~~and~~ IC 31-16-8-1, **and IC 31-25-5**, refers to the guidelines adopted by the Indiana supreme court.

SECTION 5. IC 31-9-2-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28. "Court appointed special advocate", for purposes of IC 31-15-6, IC 31-17-6, IC 31-19-16, IC 31-19-16.5, **IC 31-28-5**, and the juvenile law, means a community volunteer who:

- (1) has completed a training program approved by the court;
- (2) has been appointed by a court to represent and protect the best interests of a child; and

(3) may research, examine, advocate, facilitate, and monitor a child's situation.

SECTION 6. IC 31-9-2-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 50. "Guardian ad litem", for purposes of IC 31-15-6, IC 31-16-3, IC 31-19-16, IC 31-19-16.5, **IC 31-28-5**, and the juvenile law, means an attorney, a volunteer, or an employee of a county program designated under IC 33-24-6-4 who is appointed by a court to:

(1) represent and protect the best interests of a child; and
(2) provide the child with services requested by the court, including:

- (A) researching;
- (B) examining;
- (C) advocating;
- (D) facilitating; and
- (E) monitoring;

the child's situation.

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

SECTION 7. IC 31-9-2-82.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 82.5. "Negotiation conference", for purposes of IC 31-25-5, means a meeting between parties to discuss and determine paternity and a child support obligation of an obligor (as defined in IC 31-25-4-4).**

SECTION 8. IC 31-9-2-85, AS AMENDED BY P.L.103-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 85. (a) "Obligee", for purposes of IC 31-16-15 and IC 31-16-16, means a person who is entitled to receive a payment under a support order.

(b) "Obligee" or "petitioner", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-14.

(c) **"Obligee", for purposes of IC 31-25-5, means a person who:**

- (1) is entitled to receive payment under a support order (as defined in section 125(a) of this chapter); or**
- (2) has sought services from a Title IV-D agency.**

SECTION 9. IC 31-9-2-86, AS AMENDED BY P.L.145-2006, SECTION 203, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 86. (a) "Obligor", for purposes of IC 31-16-15 and IC 31-16-16, means an individual who has been ordered by a court to pay child support.

(b) "Obligor" or "respondent", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-15.

(c) "Obligor", for purposes of IC 31-25-4 and **IC 31-25-5**, has the meaning set forth in IC 31-25-4-4.

SECTION 10. IC 31-9-2-117.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 117.3. "Sibling", for purposes of IC 31-28-5, means a brother or sister by blood, half-blood, or adoption.**

SECTION 11. IC 31-16-15-2.5, AS ADDED BY P.L.103-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.5. (a) If, in a Title IV-D case, an income withholding order has not been issued with a support order under section 0.5 of this chapter **or the department of child services or an administrative law judge issues an order of support under IC 31-25-5**, a Title IV-D agency may:

(1) issue an income withholding order with the support order; and

(2) after providing notice under section 3.5 of this chapter, implement the income withholding order unless the court:

(A) stays the implementation of the income withholding order under section 0.5(c) of this chapter; and

(B) provides a written finding of the stay in the support order.

(b) In a Title IV-D case in which the implementation of an income withholding order was stayed under section 0.5(c) of this chapter, the Title IV-D agency may:

(1) after providing notice under section 3.5 of this chapter, lift the stay if the obligor's child support and arrearage payments are delinquent; or

(2) lift the stay if the obligor requests implementation of the income withholding order.

(c) In a Title IV-D case, if:

(1) an income withholding order was stayed under section 0.5(c) of this chapter; and

(2) an obligor requests the implementation of the income withholding order;

the Title IV-D agency is not required to give notice under section 3.5 of this chapter before implementing the income withholding order.

(d) An income withholding order issued under subsection (a):

(1) has the same force and effect; and

(2) is enforceable in the same manner;

as an income withholding order issued by a court.

(e) The total amount required to be withheld under an income withholding order implemented under this section is the sum of:

- (1) the obligor's current child support obligation; plus
- (2) the amount of arrearage payment ordered by the court; plus

(3) an additional amount as determined under subsection (f) for:

(A) any arrearage that has not been adjudicated, if no arrearage has been adjudicated previously; or

(B) any additional arrearage that:

(i) has not been adjudicated; and

(ii) accrues since the last adjudication of arrearage by the court.

(f) If an obligor subject to an income withholding order is in arrears, unless otherwise ordered by a court, the Title IV-D agency or its agent may increase the weekly amount withheld as follows:

(1) If the arrearages are at least five hundred dollars (\$500) and less than three thousand dollars (\$3,000), an additional amount of up to twenty dollars (\$20).

(2) If the arrearages are at least three thousand dollars (\$3,000) and less than five thousand dollars (\$5,000), an

additional amount of up to twenty-five dollars (\$25).

(3) If the arrearages are at least five thousand dollars (\$5,000) and less than ten thousand dollars (\$10,000), an additional amount of up to thirty dollars (\$30).

(4) If the arrearages are at least ten thousand dollars (\$10,000) and less than fifteen thousand dollars (\$15,000), an additional amount of up to thirty-five dollars (\$35).

(5) If the arrearages are at least fifteen thousand dollars (\$15,000) and less than twenty thousand dollars (\$20,000), an additional amount of up to forty dollars (\$40).

(6) If the arrearages are at least twenty thousand dollars (\$20,000) and less than twenty-five thousand dollars (\$25,000), an additional amount of up to forty-five dollars (\$45).

(7) If the arrearages are at least twenty-five thousand dollars (\$25,000), an additional amount of up to fifty dollars (\$50).

(g) A court is not bound by and is not required to consider the additional amounts described in subsection (f) when ordering, modifying, or enforcing periodic payments of child support.

SECTION 12. IC 31-25-2-21 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2009]: **Sec. 21. (a) The department shall employ a sufficient number of administrative law judges to hear and decide cases under IC 31-25-5.**

(b) An administrative law judge employed by the department is subject to rules adopted by the department under IC 4-22-2. IC 4-21.5 does not apply to a proceeding by an administrative law judge under IC 31-25-5.

(c) An administrative law judge employed under this section must be an attorney licensed in Indiana.

SECTION 13. IC 31-25-4-17, AS AMENDED BY P.L.103-2007, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 17. (a) The bureau shall do the following:**

(1) Collect support payments when the payments have been assigned to the state by the application for assistance under Title IV-A.

(2) Assist in obtaining **or establishing** a support order, including an order for health insurance coverage under:

(A) IC 27-8-23;

(B) IC 31-14-11-3; or

(C) IC 31-16-6-4;

when there is no existing order and assistance is sought.

(3) Assist mothers of children born out of wedlock in establishing paternity and obtaining a support order, including an order for health insurance coverage under IC 27-8-23, when the mother has applied for assistance.

(4) Implement income withholding in any Title IV-D case:

(A) with an arrearage; and

(B) without an order issued by a court or an administrative agency.

(5) Enforce intrastate and interstate support orders using high volume automated enforcement features.

(6) Use a simplified procedure for the review and adjustment of support orders as set forth in 42 U.S.C. 666(a)(10).

(b) Whenever the bureau collects support payments on behalf of an individual who is no longer a member of a household that receives Title IV-A cash payments, the collected support payments (except collections made through a federal tax refund offset) shall be promptly distributed in the following order:

(1) Payment to the recipient of the court ordered support obligation for the month that the support payment is received.

(2) Payment to the recipient of the support payment arrearages that have accrued during any period when the recipient was not a member of a household receiving Title IV-A assistance.

(3) Payment to the state in an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the recipient's family; or

(B) the amount assigned to the state by the recipient under IC 12-14-7-1.

(4) Payment of support payment arrearages owed to the recipient.

(5) Payment of any other support payments payable to the recipient.

(c) Whenever the bureau receives a payment through a federal tax refund offset on behalf of an individual who has received or is receiving Title IV-A assistance, the child support payment shall be distributed as follows:

(1) To the state, an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the individual's family; or

(B) the amount assigned to the state by the individual under IC 12-14-7-1.

(2) To the individual, any amounts remaining after the distribution under subdivision (1).

(d) Except as provided in section 19.5 of this chapter, whenever the bureau collects a child support payment from any source on behalf of an individual who has never received Title IV-A assistance, the bureau shall forward all money collected to the individual.

(e) Whenever the bureau receives a child support payment on behalf of an individual who currently receives a Title IV-A cash payment or an individual whose cash payment was recouped, the child support payment shall be distributed as follows:

(1) To the state, an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the individual's family; or

(B) the amount assigned to the state by the individual under IC 12-14-7-1.

(2) To the individual, any amounts remaining after the distribution under subdivision (1).

(f) Unless otherwise required by federal law, not more than seventy-five (75) days after a written request by a recipient, the bureau shall provide an accounting report to the recipient that identifies the bureau's claim to a child support payment or arrearage.

(g) The bureau, the department of child services, and the department of state revenue may not charge a custodial parent a fee to seek or receive a payment through a federal tax refund offset as described in subsection (c).

SECTION 14. IC 31-25-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]:

Chapter 5. Establishment of Paternity and Child Support
Sec. 1. (a) The department shall implement this chapter as a pilot program.

(b) This chapter applies only to counties selected as participants in the pilot program by the department.

(c) The department shall select one (1) county that shall not participate in the pilot program established under this chapter. After December 31, 2008:

(1) the county selected under this subsection shall administer the child support laws in the same manner in which the county administered the child support laws before January 1, 2009; and

(2) the department may provide additional funding to the county selected under this subsection as determined necessary by the department in order to increase child support collection efforts in the county.

(d) The department and the prosecuting attorneys council of Indiana shall jointly develop criteria for the selection of counties under subsections (b) and (c). The criteria shall be designed to choose, to the extent reasonably possible, equivalent counties by measurement of existing caseloads for each caseworker and judicial time available for consideration of paternity and child support matters.

Sec. 2. (a) The department shall serve a notice of financial responsibility to an:

(1) obligee; and

(2) obligor who:

(A) owes child support under an existing child support order;

(B) is responsible for the support of a child; or

(C) is an alleged biological parent.

(b) The notice under subsection (a) must include the following information:

(1) A statement that:

(A) the obligor is required to appear at the date, time, and location stated in the notice for a negotiation conference to determine the obligor's child support obligation; and

(B) at the negotiation conference, a party may opt out of the negotiation conference and request that an obligor's child support obligation be determined by a court.

(2) A statement that in the absence of an executed paternity affidavit, the obligor may request a genetic test and that if a genetic test is not:

(A) obtained before the legal establishment of paternity; and

(B) submitted into evidence before the entry of the final order establishing paternity;

a genetic test may not be allowed into evidence at a later date.

(3) A statement that the department will issue a default order as described under section 7(a) of this chapter if:

(A) the obligor fails to:

(i) appear for the negotiation conference; or

(ii) reschedule the negotiation conference before the date stated in the notice; and

(B) one (1) or both of the following apply:

(i) The obligor executed a paternity affidavit.

(ii) The results of the genetic test indicate at least a ninety-nine percent (99%) probability that the man is the child's biological father.

(4) A statement that the department shall issue a default order as described under section 7(b) of this chapter if:

(A) the obligor fails to:

(i) appear for the negotiation conference; or

(ii) reschedule the negotiation conference before the date stated in the notice; or

(B) unless a party opts out of the negotiation conference, the obligor fails to:

(i) submit to a genetic test as ordered by the department; or

(ii) appear for an appointment to submit to a genetic test without good cause.

(5) A statement that a default order will be filed with the clerk of the court as described under section 15 of this chapter and that after the default order is filed with the clerk of the court, the default order has all the force, effect, and remedies of an order of the court.

(6) The following:

(A) The name of the obligee.

(B) The name and birth date of the child for whom support is being sought.

(7) A statement that the department will apply the child support guidelines to determine the obligor's weekly child support obligation.

(8) A statement that in calculating the amount of the obligor's weekly child support obligation under the child support guidelines, the department will calculate the weekly child support obligation using the parties' income information and that in the absence of income information, the department may calculate the obligor's weekly child support obligation using the current minimum wage for a forty (40) hour work week.

(9) A statement that the department may issue an administrative subpoena to obtain:

(A) income information; and

(B) other information relevant for establishing and enforcing a child support obligation.

(10) A statement that the department may enter a temporary order requiring the obligor to pay child support in an amount established by applying the child support guidelines.

(11) If applicable, a statement of the amount of arrears that has accrued under an order for child support.

(12) A statement that fees and costs associated with the collection of child support may be assessed against and collected from the obligor.

(13) If applicable, a statement that foster care maintenance may be collected against the obligor.

(14) The interest that may be applied on late child support payments.

(15) A statement that the obligor may assert one (1) or more of the following objections in the negotiation conference, and that if an objection is not resolved, the department will schedule an administrative hearing on the matter:

- (A) The obligor is not the parent of the dependent child.
- (B) The dependent child has been adopted by a person other than the obligor.
- (C) The dependent child is emancipated.
- (D) There is an existing order of child support that establishes the obligor's weekly child support obligation.

(16) A statement that medical support will be established in accordance with IC 31-16-6-4.

(17) A statement that the department may review and adjust an order for child support in accordance with the:

- (A) child support guidelines; and
- (B) state laws.

(18) A statement that the obligor is responsible for notifying the department of a change in the obligor's address or employment not later than fifteen (15) days after the date of the change.

(19) Instructions on contacting the department if the obligor has any questions.

(20) A statement that the obligor has the right to:

- (A) consult with an attorney; and
- (B) be represented by an attorney at the negotiation conference.

(21) Other information necessary as determined by the department.

(c) The department shall serve a notice of financial responsibility under this section to the obligor and obligee in the same manner as prescribed under Rule 4.1 of the Indiana Rules of Trial Procedure.

Sec. 3. (a) The department shall schedule a negotiation conference not more than thirty (30) days after the date the department issues the notice of financial responsibility under section 2 of this chapter.

(b) Except as provided in section 14 of this chapter, an obligor or obligee who has been served with a notice of financial responsibility under section 2 of this chapter shall:

- (1) appear for the negotiation conference at the date, time, and location set forth in the notice of financial responsibility; or
- (2) reschedule the negotiation conference with the department before the date of the negotiation conference as set forth in the notice of financial responsibility.

(c) The department shall reschedule a negotiation conference as established in rules adopted by the department under IC 4-22-2.

(d) If a negotiation conference is rescheduled, the department shall provide notice to the obligor and obligee of the new date and time of the negotiation conference in the same manner as prescribed under Rule 4.1 of the Indiana Rules of Trial Procedure.

Sec. 4. (a) At a negotiation conference, the department shall advise each party that the party may:

- (1) consult with and be represented by an attorney at the negotiation conference;
- (2) opt out of the negotiation conference and request that the obligor's child support obligation be determined by a court; or
- (3) consult with and be represented by an attorney and opt out of the negotiation conference and request that the obligor's child support obligation be determined by a court.

(b) If a party opts out of the negotiation conference, the department shall terminate the negotiation conference and notify the appropriate prosecuting attorney that the party has opted out of the negotiation conference.

(c) If the parties stipulate to an agreement of a child support obligation at the negotiation conference, the department shall issue an order of child support that includes the following:

- (1) The amount of the obligor's weekly child support obligation.
- (2) If applicable, the amount of the obligor's child support arrearage.
- (3) Instructions on the manner in which the amount under subdivision (1) or (2) must be paid.
- (4) The name, birth date, and residential and mailing address of the:
 - (A) obligor;
 - (B) obligee; and
 - (C) child for whom support is being sought.
- (5) Other information as required by state law or as determined by the department.

(d) If the department issues an order under this section, the order may include an order of custody if the parties agree to a custody arrangement.

(e) If the department issues an order under this section, the order shall establish:

- (1) parenting time in accordance with the parenting time guidelines adopted by the Indiana supreme court, unless the mother and father agree to an alternative parenting time arrangement; or
- (2) if the mother and father agree to an alternative parenting time arrangement, the alternative parenting time arrangement.

(f) If the department issues an order under this section, both parents have the same right to access any records of the child that a parent may access under the law.

(g) The department shall serve an order under this section on the obligor and obligee in the same manner as prescribed under Rule 4.1 of the Indiana Rules of Trial Procedure.

Sec. 5. (a) Unless a party opts out of a negotiation conference under section 4 of this chapter, if:

- (1) the parties do not stipulate to an agreement at the negotiation conference; and
- (2) in the absence of an executed paternity affidavit, the obligor contests paternity;

the department shall issue an order for genetic testing of the obligor and continue the negotiation conference to allow for

the receipt of the genetic test results.

(b) If the department issues an order for genetic testing under subsection (a), the department:

- (1) shall pay the costs associated with the genetic test; and
- (2) may recover the costs described under subdivision (1) from the:
 - (A) alleged father if paternity is established; or
 - (B) obligee if paternity is not established.

(c) If the:

- (1) department orders genetic testing under subsection (a); and
- (2) results of the genetic test do not indicate at least a ninety-nine percent (99%) probability that the man is the child's biological father;

the department may dismiss the action or take other appropriate action as allowed by law.

(d) The department shall serve the order for genetic testing to the obligor and obligee in the same manner as prescribed under Rule 4.1 of the Indiana Rules of Trial Procedure.

Sec. 6. (a) Unless a party opts out of a negotiation conference under section 4 of this chapter, the department shall issue a temporary order of child support if:

- (1) the parties do not stipulate to an agreement at the negotiation conference; and
- (2) one (1) or both of the following apply:
 - (A) The obligor has executed a paternity affidavit.
 - (B) The results of the genetic test indicate at least a ninety-nine percent (99%) probability that the man is the child's biological father.

(b) If the department issues a temporary order under subsection (a), the department shall:

- (1) file information with the clerk of the court as required under section 15(b)(2) of this chapter; and
- (2) request an administrative hearing with an administrative law judge.

(c) The department shall serve the temporary order of child support to the obligor and obligee in the same manner as prescribed under Rule 4.1 of the Indiana Rules of Trial Procedure.

Sec. 7. (a) The department shall issue a default order establishing child support against the obligor if:

- (1) an obligor fails to:
 - (A) appear for the negotiation conference at the time and location set forth in the notice of financial responsibility; or
 - (B) reschedule the negotiation conference with the department before the date of the negotiation conference as set forth in the notice of financial responsibility; and
- (2) one (1) or more of the following apply:
 - (A) The obligor has executed a paternity affidavit.
 - (B) The results of the genetic test indicate at least a ninety-nine percent (99%) probability that the man is the child's biological father.

(b) If, in an action to establish paternity and a child support obligation:

(1) the obligor fails to:

- (A) appear for the negotiation conference at the time and location set forth in the notice of financial responsibility; or
- (B) reschedule the negotiation conference with the department before the date of the negotiation conference as set forth in the notice of financial responsibility; or

(2) unless a party opts out of a negotiation conference under section 4 of this chapter, the obligor fails to:

- (A) take a genetic test as ordered by the department; or
- (B) appear for an appointment to take a genetic test without good cause;

the department shall issue a default order of paternity and child support.

(c) A default order issued under subsection (a) or (b) must include the following:

- (1) The amount of the obligor's weekly child support obligation.
- (2) If applicable, the amount of the obligor's child support arrearage.
- (3) Instructions on the manner in which the amount under subdivision (1) or (2) must be paid.
- (4) The following:
 - (A) Name of the obligee.
 - (B) Name and birth date of the child for whom support is being sought.
- (5) For a default order establishing paternity, a statement that the obligor has been determined to be the child's legal father.
- (6) Other information as required by state law or as determined by the department.

(d) The department shall serve a default order issued under this section to the obligor and obligee in the same manner as prescribed under Rule 4.1 of the Indiana Rules of Trial Procedure.

(e) If the department enters a default order under this section, the department, obligor, or obligee may request an administrative hearing on the default order as established in rules adopted by the department under IC 4-22-2.

Sec. 8. (a) Upon request by the department, an obligor, or an obligee under section 7(e) of this chapter, the department shall assign an administrative law judge to hold an administrative hearing on the issue of paternity, if applicable, and child support.

(b) The department shall send notice of the administrative hearing to the obligor and obligee in the same manner as prescribed under Rule 4.1 of the Indiana Rules of Trial Procedure.

Sec. 9. (a) An administrative law judge may not issue a decision as to the validity of a pre-existing court order. However, the department or an administrative law judge may review and adjust an existing child support order in accordance with:

- (1) the child support guidelines; and
- (2) state law.

(b) An administrative law judge shall determine the matter of paternity, if applicable, and child support de novo.

(c) An administrative law judge shall include written findings and conclusions in an order issued by the administrative law judge under this chapter.

(d) An order issued by an administrative law judge shall be served upon the obligor and obligee in the same manner as prescribed under Rule 4.1 of the Indiana Rules of Trial Procedure.

Sec. 10. (a) The department or an administrative law judge shall determine the amount of a child support obligation under this chapter by applying the child support guidelines.

(b) The department or an administrative law judge may issue an administrative subpoena requesting:

- (1) income information; or
- (2) other information relevant for establishing and enforcing an order for child support.

Sec. 11. (a) If a paternity affidavit is executed under IC 16-37-2-2.1, the:

- (1) mother has sole legal custody of the child; and
- (2) father has reasonable parenting time rights in accordance with the parenting time guidelines adopted by the Indiana supreme court;

unless another custody or parenting time determination is made by a court under IC 31-14.

(b) If a genetic test is requested after the execution of a paternity affidavit and granted by a court under state law, a court shall order that the genetic test be paid:

- (1) from the county general fund of the county in which the child support proceeding occurs; or
- (2) by the party who requested the genetic test.

(c) The county shall pay an order issued under subsection (b)(1) without an appropriation.

Sec. 12. (a) An obligor or obligee may file a written request with the department for the review and adjustment of:

- (1) a court order for child support; or
- (2) an order for child support issued under this chapter.

(b) The department, not later than sixty (60) days after receipt of a request for review and adjustment of child support under this section, shall:

- (1) if the department objects to the request for review and adjustment of child support because the request fails to meet the requirements under IC 31-16-8-1 or the child support guidelines, notify the requesting party that the request has been denied and advise the party of the party's right to request an administrative hearing; or
- (2) if the department does not object to the party's request, issue a notice of review and adjustment of child support.

(c) If a party requests an administrative hearing under this section, the administrative law judge shall:

- (1) hold an administrative hearing not later than sixty (60) days after the administrative law judge receives the request; and
- (2) determine only the issue of adjustment of child support.

(d) The department shall serve the obligor and obligee with a notice of review and adjustment of child support in the same manner as prescribed under Rule 4.1 of the Indiana Rules of Trial Procedure.

(e) A request for review and adjustment of child support shall not stay an order for child support issued by the department under this chapter.

Sec. 13. (a) A party may seek judicial review of an order by an administrative law judge under this chapter not later than fifteen (15) calendar days after the postmark date on the order issued by the administrative law judge.

(b) A party may seek judicial review of an order issued under section 4 of this chapter establishing custody of a child and parenting time.

(c) The clerk of the court shall send a notice of an appeal under this section that includes the date and time of the hearing to the:

- (1) appellant;
- (2) appellee;
- (3) department; and
- (4) Title IV-D prosecuting attorney in the county in which the appeal was filed.

(d) A court shall hear an appeal under this section de novo.

Sec. 14. (a) If the department is acting at the request of another state's child support agency, a nonresident obligee is not required to appear at a negotiation conference or an administrative hearing under this chapter.

(b) The department may:

- (1) take evidence related to a child support obligation from a nonresident obligee by telephone deposition or by affidavit; and
- (2) present the evidence at a negotiation conference or an administrative hearing under this chapter.

Sec. 15. (a) The department shall file the information described in subsection (b) with the following:

- (1) The clerk of the court in which an action relating to child support for a child is pending.
- (2) If there is not an action relating to child support for a child pending in a court, the clerk of the court in the county in which the notice of financial responsibility under section 2 of this chapter was issued.

(b) The department shall file the following with a clerk of the court described under subsection (a):

- (1) If the department issues an order of child support under section 4 of this chapter, the following:
 - (A) A copy of the order.
 - (B) A copy of one (1) of the following:
 - (i) An executed paternity affidavit.
 - (ii) A genetic test.
- (2) If the department issues a temporary order under section 6 of this chapter, a copy of the temporary order.
- (3) If the department issues a default order under section 7 of this chapter, the following:
 - (A) A copy of the default order.
 - (B) If applicable, a copy of the:
 - (i) paternity affidavit; or
 - (ii) result of the genetic test.

(4) If an administrative law judge issues an order establishing paternity and child support under section 9 of this chapter, the following:

(A) A copy of the order establishing paternity and child support.

(B) The:

(i) paternity affidavit; or

(ii) if applicable, genetic test results.

(c) The clerk shall:

(1) stamp the date of receipt of a copy of an order establishing paternity, if applicable, and child support under this chapter; and

(2) assign the order described under subdivision (1) with a cause number.

(d) An order of paternity or child support, or both, filed under this section has all the force, effect, and remedies of an order of the court.

Sec. 16. The department shall adopt rules under IC 4-22-2 to administer this chapter.

SECTION 15. IC 31-28-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 5. Foster Care Sibling Visitation

Sec. 1. This chapter applies to:

(1) a child who receives foster care that is funded by the department or a county office; and

(2) a sibling of a child described in subdivision (1).

Sec. 2. The department shall make reasonable efforts to promote sibling visitation for every child who receives foster care, including visitation when one (1) sibling receives foster care and another sibling does not.

Sec. 3. A child, a child's foster parent, a child's guardian ad litem, a court appointed special advocate, or an agency that has the legal responsibility or authorization to care for, treat, or supervise a child may request the department to permit the child to have visitation with the child's sibling if the child or the child's sibling, or both, receive foster care. If the department finds that the sibling visitation is in the best interests of each child who receives foster care, the department shall permit the sibling visitation and establish a sibling visitation schedule.

Sec. 4. (a) If the department denies a request for sibling visitation under section 3 of this chapter, the child's guardian ad litem or court appointed special advocate may petition the juvenile court with jurisdiction in the county in which the child receiving foster care is located for an order requiring sibling visitation.

(b) If the juvenile court determines it is in the best interests of the child receiving foster care to have sibling visitation, the juvenile court shall order sibling visitation and establish a schedule for the sibling visitation.

Sec. 5. (a) The juvenile court may appoint a guardian ad litem or court appointed special advocate if a child receiving foster care requests sibling visitation.

(b) The provisions of IC 31-17-6 apply to a guardian ad litem or court appointed special advocate appointed under this section.

SECTION 16. [EFFECTIVE UPON PASSAGE] (a)

Notwithstanding IC 31-25-5, as added by this act, the department of child services shall adopt rules to administer IC 31-25-5.

(b) This SECTION expires July 1, 2009.

SECTION 17. [EFFECTIVE JANUARY 1, 2009] (a) As used in this SECTION, "department" refers to the department of child services.

(b) The department and the prosecuting attorneys council of Indiana shall compare performance measures, including paternity establishment, child support establishment, child support collections, and child support arrearage collections, between the counties selected to participate in the pilot program under IC 31-25-5-1, as added by this act, and the county selected to administer child support laws in the same manner in which the county administered the child support laws before January 1, 2009, under IC 31-25-5-1(c), as added by this act.

(c) The department and the prosecuting attorneys council of Indiana shall submit a report to the Indiana child custody and support advisory committee (established by IC 33-24-11-1) before January 1, 2011, that includes the results of the pilot program and the department's findings and recommendations concerning the performance measure comparison between the counties described in subsection (b).

(d) This SECTION expires July 1, 2011.

SECTION 18. An emergency is declared for this act.

(Reference is to ESB 91 as printed February 15, 2008.)

Delph, Chair Avery

Skinner Knollman

Senate Conferees House Conferees

Roll Call 328: yeas 38, nays 9. Report adopted.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the Speaker of the House has removed the following Representative from the conference committee on Engrossed Senate Bill 329:

Advisor:

Robertson

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 81.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 176.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 360.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1042.

CLINTON MCKAY
Principal Clerk of the House

**MESSAGE FROM THE PRESIDENT
OF THE SENATE**

Members of the Senate: I have on the 10th day of March, 2008, signed Senate Enrolled Acts: 104, 107, 159, 175, 192, 241, 316, 336, and 343.

REBECCA S. SKILLMAN
Lieutenant Governor

SENATE MOTION

Madam President: I move that Senators Alting, Arnold, Becker, Boots, Bray, Breaux, Broden, Charbonneau, Deig, Delph, Dillon, Drozda, Errington, Gard, Hershman, Hume, Jackman, Kenley, Kruse, Lanane, Landske, Lawson, Lewis, Long, Lubbers, Meeks, Merritt, Miller, Mishler, Mrvan, Nugent, Paul, Riegsecker, Rogers, Simpson, Sipes, Skinner, Smith, Steele, Tallian, Walker, Waltz, Waterman, Weatherwax, M. Young, R. Young, and Zakas be added as coauthors of Senate Resolution 37.

WYSS

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Wednesday, March 12, 2008.

LONG

Motion prevailed.

The Senate adjourned at 3:13 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate